

**IN THE COURT OF IIND ADDITIONAL CIVIL JUDGE AND
J.M.F.C., AT:DODDABALLAPURA**

Present: Ravi Betagar, B.A.,LL.B.(Hons.)

2nd Additional Civil Judge and JMFC,
Doddaballapura

Dated: 28th day of the March, 2026

OS.No.228/2020

Plaintiff/s : **Sri. R. Janardhan,**
S/o Late Ramaiah
Aged about 50 years
R/at: Melinanayakarandahalli village,
Antharhalli Post,
Tubagere Hobli,
Doddaballapura Taluk
Benmgaluru Rural District.

(By Sri.R.U.R , Adv.)

- V/s. -

Defendant/s: **Sri.Subramani,**
S/o Chikkabacchegowda
Aged about 67 years
R/at: Gaddambacchahalli village,
Kasaba Hobli, Doddaballapura Taluk
Bengaluru Rural District.

(By Sri.D.M.R., Adv.)

Nature of the suit	Permanent injunction
Date of Institution of the suit	11.08.2020
Date of framing of the Issues	03.12.2022
Date of commencement of	11.06.2024

evidence							
Date of closure of the evidence	14.01.2026						
Date of pronouncement of the Judgment	28.03.2026						
Opinion of the Judge	Dismissed						
Total Duration	<table> <tr> <td>Years</td> <td>Months</td> <td>Days</td> </tr> <tr> <td>05</td> <td>07</td> <td>17</td> </tr> </table>	Years	Months	Days	05	07	17
Years	Months	Days					
05	07	17					

SD/-

(Ravi Betagar)
 II Addl.Civil Judge and JMFC,
 Doddaballapura
JUDGMENT

The plaintiff has filed the present suit against the defendant seeking the relief of permanent injunction with respect to the suit schedule property.

2. The brief facts of the plaintiff's case are as hereunder:

It is the case of the plaintiff that, he is the absolute owner of the suit schedule property which he acquired my way of adverse possession. Originally the suit schedule property belonged to the government and he has been cultivating the suit schedule property from the past 30 years, he has also filed application Under form no.53 seeking to regularize his occupation over the suit schedule property on 17.04.1998. In the year of

2019 the Taluk Surveyor has conducted the survey of suit schedule property and reported that, the plaintiff was in possession of the property for more than 20 years and the survey was conducted as per the order passed in LND/CR/639/2019-20, NK(T)LNDCR:213/2019-20 and IR(T)PR/704/2019-20. The application of the plaintiff is still pending and despite that, his name is shown in the RTC Extracts. Presently the plaintiff is growing crops over the suit schedule property. The defendant without having right, title interest over the suit schedule property. He along with some anti social elements came near the suit schedule property on 04.05.2020 and threatened the plaintiff to cut the Ragi Crops and to dispossess him from the suit schedule property. In the regard the plaintiff approached jurisdictional police station and lodged complaint but, the registered an NCR and advised the plaintiff to approach the court. The defendant also submitted that, before police that he is having 51 acres of land which was granted to him by the government. All these aspects are suspicious. Left with no alternatives the plaintiff filed the present suit against the defendant seeking relief as prayed for.

3. The suit summons was served on the defendant. The defendant appeared through his counsel and filed the written statement. In the written statement filed by the defendant, he had denied all the plaintiff averments and further took contention that, originally in Sy.No.17 total 52 acres and 11 guntas of the land and in Old Sy.No.16 and New

Sy.NO.60 measuring 47 acres, 29 guntas of land belonged to person name R.L.Jalappa and he was the absolute owner of the said property. On 04.09.1964 R.L.Jalappa and his children sold the said properties infavour of person name Channegowda, whose is the grand father of the present defendant. The person named Anjinappa filed suit for partition in O.S.No.37/1973 and the said suit was compromised on 16.04.1973 and as per the said compromise 52 acres 11 gunts in Sy.No.17 and 47 acres 29 gunts land in Old Sy.No.16 and New Sy.no.60 and other properties where felt the share of G.Ramegowda who is the uncle of the present defendant. Even the present suit schedule property felt to his share. On 26.03.1984 the father of defendant and his brothers entered in partition and as per the said partition 32 acres 11 gunts of land in Sy.no.17 and 47 acres 29 guntas land in old Sy.No.16 and new Sy.no.60 along with other properties felt to the share of defendant father and even the khata of those properties where mutated in the name of defendants father. After the death of defendants father the present defendant along with his brother wherein joint possession and enjoyment of the said property without any interference from any person. The plaintiff in collusion with the revenue official has created false and fabricated documents. The plaintiff is not at all in the possession of the suit schedule property as stated by him. The relief prayed by the plaintiff cannot be granted. Hence, prays to dismiss the suit.

4. The court perused the pleading, documents and materials produced by the parties and the parties are heard. The following issues are framed by this court:

ISSUES

1. **Whether the plaintiff proves that he is in peaceful possession and and enjoyment suit schedule property as on date of filing suit?**
2. **Whether the plaintiff further proves that the defendants is interfering with the plaintiff peaceful possession and enjoyment over the suit schedule property ?**
3. **Whether the plaintiff is entitled for the permanent injunction as sought in the prayer?**
4. **What order or decree ?**

5. In order to establish the burden casted on the plaintiff he got examined himself as P.W.1 and got marked total 10 documents as Ex.P.1 to 10. The P.W.1 was not cross examined by the defendant counsel. The defendant not led any evidence on their behalf as such it was taken as nil.

6. Heard the counsel for the plaintiff. As the defendant side not canvassed argument, it was taken as nil and perused the materials available on record.

7. This court proceeds to answer the aforementioned issues as hereunder:

ANSWERS

Issue No.1to 3: In the Negative.

Issue No4: As per the final order for the following:

REASONS

8. ISSUE No.1 to3: As these issues are interconnected with one another, in order to avoid the repetition of facts, evidence and reasoning, all these issues are taken up together for joint consideration.

9. The plaintiff has filed his affidavit in lieu of his examination in chief and therein he has reiterated the plaint averments and he got marked the following documents on his behalf.

Exhibit Number	Name of the Document
Ex.P1	Letter issued by Tahsildar
Ex.P2	Report issued by Village Accountant
Ex.P3	Report issued by Rajyanirishaka.
Ex.P4	Report issued by Assistant Tahashildar.
Ex.P5	Sketch

Ex.P6 to 9	Photographs
Ex.P10	C.D

10. The perusal of all the documents produced by the plaintiff shows that, except Ex.P-5 he has not produced any other documents to shows that, he is in possession of the suit schedule property. The plaintiff in his pleadings and evidence affidavit has contended that, he had filed an application before the Tahsildar of Doddaballapura under Form No.53 to regularize his occupation over the suit schedule property, but the said document has not been produced by the plaintiff before the court. Even the careful perusal of the Ex.P-1 to 4 does not shows that, such application being filed by the plaintiff. The plaintiff has also pleaded and stated in his evidence affidavit that, his name entered in the RTC extract of the suit schedule property, but no such document has been produced by the plaintiff to shows that, his name is being entered in the RTC records of the suit schedule property.

11. The plaintiff has also contended that, he has been in possession of the suit schedule property from past 30 years. but, Ex.P-5 shows that, he is alleged said to be in the possession of the marked portion in the Ex.P-5 from the past 20 years. But, the said document does not contain

any date as to show that, when the said survey report was said to have been prepared. The Ex.P-5 appears to have been prepared in furtherance of the land which the plaintiff has sought to be granted in his name. But, the plaintiff had failed to produce any document before the court that, whether the said report as per Ex.P-5 has been accepted and the said property was granted in his name. Only on the basis of Ex.P-5 it cannot be held that, the plaintiff said to be in the possession of the suit schedule property.

12. The perusal of the Ex.P-1 shows that, the Tahasildar of the Doddaballapura had issued a letter to ADLR of Doddaballapura to conduct measurement of Sy. No.17 for extent of 3 acres and based on the said requisition Ex.P-2 was issued by Village Accountant and the perusal of the Ex.P2 shows that, the application is said to have been filed by the plaintiff in Form No.53 was not found in the records at the office. Hence, the said letter was return seeking ask appropriate orders.

13. Ex.P-3 was issued by the authority and in the said letter it is stated that, if the plaintiff said to have been filed application in Form No.54 within specified time and if such application said to have been filed the taluk surveyor has to measure the land in which the plaintiff alleged said to have been in possession. Ex.P-4 shows that, the Assistant Tahsildar has submit a letter stating that, whether the plaintiff had filed application U/Sec. form No.53 within specified time limit and whether the

taluk Surveyor can be appointed to conduct the survey of the land in which the plaintiff said to be in the possession in Sy. No.17. All these documents shows that, there is no mention of plaintiff filing application under form No.53 and Ex.P-5 doesn't specify any thing as to under which order the said document was prepared by the said Taluk Surveyor. In view of the all these things this court is of the consider opinion that, the plaintiff has not made out his case on the basis of preponderance of probabilities. in the present case even though the PW-1 ie., plaintiff was not cross examined by the defendant, but despite that, the burden still rests on the shoulder of the plaintiff to prove that, he is in possession of the suit schedule property as on the date of the filing of the suit and the defendant has interfered in his possession as alleged by him in the plaint. The standard of proof on which the plaintiff has to prove his case is "preponderance of probabilities." By considering the evidence available on record and as per the reasons stated above this court is of the considered opinion that, the plaintiff has not even established his case on the basis of the preponderance of the probabilities that, he is in possession of the suit schedule property as pleaded by him and when he cannot be said to be in the possession of the suit schedule property then the question of the defendant interfering in his possession does not arise at all. In such circumstances the plaintiff is not entitled to any relief as prayed by him. **Accordingly the Issue No.1 to 3 are hereby answered in the Negative.**

14. ISSUE NO.4: As per the reasons mentioned above this court proceeds to pass the following:

ORDER

The suit filed by the plaintiff is hereby dismissed with costs.

Draw decree accordingly

(Diction given to Stenographer Grade-III directly on computer, same is corrected and pronounced by me in the open court on this **28th day of March, 2026**)

SD/-

(Ravi Betagar)
II Addl.Civil Judge and JMFC,
Doddaballapura

ANNEXURES

1. List of witnesses examined on behalf of the plaintiff:

a. P.W.1- R.Janardhan.

2. List of Documents got marked on behalf of the plaintiff:

- a. Ex.P.1 : Letter issued by Tahsildar
- b. Ex.P.2 : Report issued by Village Accountant
- c. Ex.P.3 : Report issued by Rajyanirishaka.
- d. Ex.P.4 : Report issued by Assistant Tahashildar.
- e. Ex.P.5 : Sketch
- f. Ex.P.6 to 9: Photographs
- g. Ex.P.10 : C.D

3. **List of witnesses examined on behalf of the defendant:**

- Nil -

4. **List of Documents got marked on behalf of the defendant:**

- Nil -

SD/-

(Ravi Betagar)

II Addl. Civil Judge and J.M.F.C.
Doddaballapura.